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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,754	10/01/2004	Philip Marc Stewart	MIDTF-365P2	5753

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EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

MAIL DATE	DELIVERY MODE
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07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,754

Applicant(s)

STEWART ET AL.

Examiner

Tara L. Mayo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 1 through 3, 6 through 11, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siepmann et al. (U.S. Patent No. 6,568,008 B2) in view of Abu-Isa et al. (U.S. Patent No. 5,013,089) and Linder et al. (U.S. Patent No. 5,582,463).

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Siepmann et al. '008, as best seen in Figures 1 through 4, 6 and 8, show an articulating medical table, comprising:

with regard to claims 1 and 14,

- a stationary base;

- a seat section (S) mounted atop said base;

- a back section (30) atop said base and cooperating with said seat section to support a patient thereon, said back section moveable between a first, inclined orientation relative to said seat section, for supporting a patient in a seated position, and a second orientation substantially parallel to said seat section, to support a patient in a generally supine position; and

- an actuating mechanism (42) coupled to said back section and selectively operable to move said back section between said first and second orientations; and

with regard to claim 6,

- further comprising a procedure tray (10) slidably coupled to said base, said procedure tray moveable from a first position disposed substantially beneath said seat section and a second position wherein said procedure tray extends outwardly from said seat section.

Siepmann et al. '008 fail to teach:

with regard to claims 1, 14 and 16,

- the seat section comprising:

 - a seat frame including a planar surface with a central aperture therethrough, and

 - a layer of web material extending directly across the central aperture and secured

 - to the planar surface of the seat frame;

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with regard to claim 2,

the web material being formed of elastomer;

with regard to claim 3,

the web material being stretched approximately 10% to approximately 20% of its unstretched length when it is secured to the seat frame;

with regard to claim 7,

cushion material disposed over the web material;

with regard to claim 8,

the cushion material including a layer of foam material and upholstery cover layer;

with regard to claim 9,

the foam layer having a thickness of up to approximately 1.0 inch;

with regard to claim 10,

the foam layer having a thickness of up to approximately 0.56 inch;

with regard to claim 11,

the foam layer having a thickness of less than approximately 0.5 inch; and

with regard to claim 13,

the central aperture of the seat frame having a width, transverse to a longitudinal direction of the table, of at least approximately 12.0 inches.

Abu-Isa et al. '089, as best seen in Figures 1 through 4 and 7, show a seat assembly (A) comprising a frame (10) including a planar surface with a central aperture therethrough, and a layer of web material (18; col. 5, lines 58 through 65) extending directly across the central

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aperture and secured to the planar surface of the seat frame, wherein the central aperture is sized to permit deflection of the web material therethrough upon loading of the seat section. Abu-Isa et al. '089 teach the web material being formed of an elastomer and stretched approximately 10% when secured to the seat frame.

Linder et al. '463, as best seen in Figures 5 through 7, teach a seat assembly (10) comprising a frame (60) including a planar surface with a central aperture therethrough, and a layer of web material (28) extending directly across the central aperture and secured to the planar surface of the seat frame, wherein the central aperture is sized to permit deflection of the web material therethrough upon loading of the seat section, and further comprising a cushion material disposed over the web material, the cushion material comprising a layer of foam and an upholstery cover layer (col. 3, lines 36 through 42), wherein the structure is preferred for its ease of assembly and lightweight, low cost construction.

With regard to claims 1 through 3, 7, 8, 14 and 16, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the device taught by Siepmann et al. '008 by forming the backrest from such that it would include the frame structure, web material and cover layer as taught by Abu-Isa et al. '089 and Linder et al. '463. The motivation would have been to effect a lightweight, low-cost seat assembly.

With regard to claims 9 through 11 and 13, Applicant has not shown that the particular dimensions recited in the claims are critical or provide unexpected results. As such, the limitations are met by the device taught by the combination of Siepmann et al. '008, Abu-Isa et al. '089 and Linder et al. '463, which is capable of being manufactured to the claimed

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dimensions. *In re Woodruff*, 919 F. 2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). The motivation for making the cushion a desired thickness or the seat section a desired width would have been to provide for the comfort of a patient.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siepmann et al. (U.S. Patent No. 6,568,008 B2) in view of Abu-Isa et al. (U.S. Patent No. 5,013,089) and Linder et al. (U.S. Patent No. 5,582,463) as applied to claim 1 above, and further in view of Weismiller et al. (U.S. Patent No. 6,163,903).

The combination of Siepmann et al. '008, Abu-Isa et al. ;089 and Linder et al. '903 fails to teach:

with regard to claim 4,

foot operated controls for activating the actuating mechanism.

Weismiller et al. '903 claim (Claim 1) a chair bed comprising a frame and an articulated deck mounted on the frame, the articulated deck having head, foot and seat sections movable relative to each other, and further including a fluid system for articulating the deck sections.

Weismiller et al. '903 further claim (Claim 21), an actuating mechanism for raising and lowering the deck head section, locking means and a foot pedal positioned for use by a caregiver for releasing the locking means, thereby activating the actuating mechanism.

With regard to claim 4, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device taught by the combination of Siepmann

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et al. '008, Abu-Isa et al. '089 and Linder et al. '463 such that it would further include a foot pedal as taught by Weismiller et al. '903 for the convenient use by a caregiver; i.e., a foot pedal would preclude manual lowering of a patient positioned on the medical table.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siepmann et al. (U.S. Patent No. 6,568,008 B2) in view of Abu-Isa et al. (U.S. Patent No. 5,013,089) and Linder et al. (U.S. Patent No. 5,582,463) as applied to claim 1 above, and further in view of Douglass, Jr. et al. (U.S. Patent No. 3,334,951).

The combination of Siepmann et al. '008, Abu-Isa et al. '089 and Linder et al. '463 fails to teach:

with regard to claim 5,

a footboard slidably coupled to the base, the foot board being moveable from a first position disposed substantially beneath the seat section and a second position wherein the foot board extends outwardly from the seat section.

Douglass, Jr. et al. '951, as best seen in Figures 1 and 12, show a medical examination table comprising a footboard (184) slidably coupled to a base (2), the footboard being moveable (col. 8, lines 51 through 63) from a first position disposed substantially beneath a seat section and a second position wherein the footboard extends outwardly from the seat section (3); and further including a procedure tray (74) slidably coupled to the base.

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With regard to claim 5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device taught by the combination of Siepmann et al. '008, Abu-Isa et al. '089 and Linder et al. '463 such that it would further include a footboard as taught by Douglass, Jr. et al. '951. The motivation would have been to provide support for a patient's feet.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siepmann et al. (U.S. Patent No. 6,568,008 B2) in view of Abu-Isa et al. (U.S. Patent No. 5,013,089) and Linder et al. (U.S. Patent No. 5,582,463) as applied to claim 1 above, and further in view of Welling et al. (U.S. Patent No. 6,880,189 B2).

The combination of Siepmann et al. '008, Abu-Isa et al. '089 and Linder et al. '463 fails to teach:

with regard to claim 12,

a heater associated with at least one of the seat section and the back section.

Welling et al. '189, as best seen in Figures 41 and 42, show a patient support comprising a heating layer (340) made of a resistive heating material. Moreover, Welling et al. '189 expressly teach the selective association of the heating layer with different areas of the patient support (col. 28, lines 5 through 16).

With regard to claim 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device taught by the combination of

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Siepmann et al. '008, Abu-Isa et al. '089 and Linder et al. '463 such that it would further include a heater as disclosed by Welling et al. '189. The motivation would have been to provide the medical table with means of warming a patient.

Response to Arguments

8. Applicant's arguments with respect to claims 1 through 14 have been considered but are moot in view of the new ground(s) of rejection.

9. In response to Applicant's summary of the telephonic interview filed 28 June 2007, the Examiner notes the following:

The Final Rejection mailed 01 June 2007 was in response to amended claims filed 03 October 2006. These claims included independent claims 1, 14 and 15. Claim 15 was withdrawn from prosecution as being directed independent or distinct from the invention originally presented for examination. Claim 1 recited the term "open area" throughout. Claim 14 recited both "open area" and "central aperture." The term "central aperture" was interpreted to mean *open area*. While Applicant's amendment necessitated new grounds of rejection, the Examiner opts to introduce additional, more relevant prior art into prosecution at this time.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


TARA L MAYO
PRIMARY EXAMINER
Art Unit 3671

tlm
26 July 2007